

DOCKET #:

CWA-08-2003-0014

CASE NAME

NORTHWEST PUBLIC SERVICE CO.

EPA ATTORNEY

ADMINISTRATIVE LAW JUDGE

PRESIDING OFFICER

| Date of Document | Description of Document |
|------------------|--|
| 11/27/02 | EXPEDITED CONSENT AGREEMENT/FINAL ORDER |
| 12/10/02 | LETTER TO COAST GUARD TRANSMITTING PAYMENT |

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

02 DEC 10 AM 9:09

FILED
EPA REGION VIII
HEARING CLERK

DEC 2 2002

Ref: 8ENF-T

CERTIFIED MAIL - 7002 0860 0005 3834 6701 - RETURN RECEIPT REQUESTED

U.S. Coast Guard
Civil Penalties
P.O. Box 100160
Atlanta, GA 30384

Enclosed please find the check for \$450.00 from Northwestern Public Service Company SPCC violations. The check is made out to the Oil Spill Liability Trust Fund for the payment of the penalty associated with docket number CWA-08-2003-0014 for deposit in the OSLTF. A copy of the Final Order has been sent to the U.S. Coast Guard Finance Center.

If you have any questions regarding this matter, please call Margaret Moomey at (303)312-6502.

Sincerely,

Connally Mears, Director
Technical Enforcement Program

Enclosure

cc: Tina Artemis, 8RC

Curt Pohl, VP SD/NE Operations



Printed on Recycled Paper

WELLS FARGO BANK WEST, N.A.
PAYABLE IF DESIRED AT
WELLS FARGO BANK SOUTH DAKOTA, N.A.

Cashier's Check

7367202

LOCATION ID 00180

23-7/1020

Remitter NORTHWESTERN

Date NOVEMBER 22, 2002

Pay FOUR HUNDRED FIFTY DOLLARS AND 00 CENTS

\$ *****450.00

To the
Order of * OIL SPILL LIABILITY TRUST FUND

TWO SIGNATURES REQUIRED IF OVER \$100,000.00

(b) (6)

(b) (6)

CHK 7023-SD



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

02 NOV 27 AM 10:44

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EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2003-0014

IN THE MATTER OF:

NORTHWESTERN PUBLIC SERVICE CO.

Respondent

)
)
)
)
)
)
)

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

November 27, 2002
DATE

Alfred C. Smith
Alfred C. Smith
Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

02 NOV 27 AM 10:44

DOCKET NO.: CWA-08-2003-0014

FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:)
Northwestern Public Service Company) **EXPEDITED CONSENT AGREEMENT**
Respondent.)

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Northwestern Public Service Company, by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations found during an inspection on September 20, 2001, and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates an electric utility transformer repair shop located at 1010 21st Street Southwest, Huron, South Dakota.

Respondent admits its facility is subject to the SPCC regulations.

Respondent agrees to correct the items cited on the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent admits that EPA has jurisdiction in this proceeding.

RECEIVED

NOV 25 2002

Office of Enforcement
Compliance & Environmental
Justice

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$450.00, which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this Agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF-T)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Connally Mears
Connally Mears, Director
Technical Enforcement Program

Northwestern Public Service Company, Respondent.

By: Curt Pohl

Name:

Curt Pohl

Title:

VP SD/NE Operations

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **NORTHWESTERN PUBLIC SERVICE COMPANY, DOCKET NO.: CWA-08-2003-0014** was filed with the Regional Hearing Clerk on November 27, 2002.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Curt Pohl
VP SD/NE Operations
Northwestern Public Service Co.
600 Market Street, NW
Huron, SD 57350

and

Commander
Finance Center (OGR)
U.S. Coast Guard
1430 A Kristina Way
Chesapeake, VA 23326

November 27, 2002


Tina Artemis
Regional Hearing Clerk

List of SPCC Violations

SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and implement a facility SPCC Plan in accordance with 40 C.F.R. § 112.7.

The Transformer Repair Shop's SPCC Plan was found to be deficient in the following areas:

No discussion of fail-safe engineering for tanks in violation of 40 C.F.R. § 112.7(e)(2)(viii).

Does not address corrosion protection for buried piping in violation of 40 C.F.R. § 112.7(e)(3)(i).

Lacks procedures for capping/blank-flanging out-of-service piping in violation of 40 C.F.R. § 112.7(e)(3)(ii).

Does not address pipe support design in violation of 40 C.F.R. § 112.7(e)(3)(iii).

No procedures for inspection of above ground valves and piping in violation of 40 C.F.R. § 112.7(e)(3)(iv).

Fails to address whether DOT procedures are followed in loading/unloading operations in violation of 40 C.F.R. § 112.7(e)(4)(i).

Does not address adequate secondary containment for loading/unloading areas in violation of 40 C.F.R. § 112.7(c) and (e)(4)(ii).

Lacks discussion of warning/barrier systems to prevent premature vehicular departure in violation of 40 C.F.R. § 112.7(e)(4)(iii).

Lacks procedures for examination of bottom drains of vehicles in violation of 40 C.F.R. § 112.7(e)(4)(iv).

Lacks written procedures for inspections and for maintaining inspection records for three years in violation of 40 C.F.R. § 112.7(e)(8).

Inadequate discussion of facility fencing in violation of 40 C.F.R. § 112.7(e)(9)(i).

Lacks procedures for locking the tank master flow and drain valves in the closed position in violation of 40 C.F.R. § 112.7(e)(9)(ii).

Lacks procedures for locking pump starter controls in the off position in violation of 40 C.F.R. § 112.7(e)(9)(iii).

Lacks procedures for draining and blank-flanging pipelines when not in use in violation of 40 C.F.R. § 112.7(e)(9)(iv).

Adequate facility lighting is not addressed in violation of 40 C.F.R. § 112.7(e)(9)(v).

Lacks schedule and description of spill prevention procedures for personnel in violation of 40 C.F.R. § 112.7(e)(10).

Fails to designate an individual responsible for spill prevention in violation of 40 C.F.R. § 112.7(e)(10)(ii).

SPCC technical implementation measures were deficient in the following areas:

Inspections were not conducted in accordance with written inspection procedures as required by 40 C.F.R. § 112.7(e)(8).

No warning signs, barrier or other system to prevent premature departure of tank trucks prior to disconnect of transfer hoses 40 C.F.R. § 112.7(e)(4)(iii).

U.S. Postal Service
CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

7002 0460 0002 8128 8147

CWA-08-2003-0014 2CA/FO

Postage \$

Certified Fee

Postmark

Curt Pohl

VP SD/NE Operations
 Northwestern Public Service Co.
 600 Market Street, NW
 Huron, SD 57350

PS Form 3800, January 2001

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Curt Pohl
 VP SD/NE Operations
 Northwestern Public Service Co.
 600 Market Street, NW
 Huron, SD 57350

NOV 27 2002

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Bonnie Reck

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

Bonnie Reck

C. Date of Delivery

12/2/02

- D. Is delivery address different from item 1?** ☐ Yes
 If YES, enter delivery address below: ☐ No

PO Box 1318

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

- Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
 (Transfer from service label)

CWA-08-2003-0014 2CA/FO
 70020460000281288147

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509